

EDUCATION AND WORKFORCE DEVELOPMENT CABINET
Kentucky Commission on Proprietary Education
(Amendment)

791 KAR 1:080. Maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver training schools, advertising and solicitation of students by commercial driver license training schools.

RELATES TO: KRS 165A.330(1), 165A.370, 165A.500, 165A.510

STATUTORY AUTHORITY: KRS 165A.340(3), 165A.510

NECESSITY, FUNCTION, AND CONFORMITY: KRS 165A.500 and 165A.510 authorize the Kentucky Commission on Proprietary Education to establish the standards for maintenance of student records, schedule of fees charged to students and refund policy, contracts and agreements involving licensed commercial driver license training schools, advertising and solicitation of students by commercial driver license training schools. This administrative regulation establishes these standards for commercial driver license training schools.

Section 1. Maintenance of Student Records and Student Roster. (1)(a) Each licensed commercial driver license training school shall maintain a permanent record of instruction given to each student to include the student instructional training progress report cards or sheets, transcripts, student written examination results, and yard and street student skills examination scores for so long as the commercial driver license training school holds a license or conducts business.

(b) If the commercial driver license training school discontinues operation, then the school shall comply with KRS 165A.390(5) and 791 KAR 1:155.

(2) The records to be maintained by the commercial driver license training school shall contain the following:

(a) Name and address of the commercial driver license training school;

(b) Name and address of the student;

(c) A photocopy of, or the number of the student's Kentucky CDL instruction permit license;

(d) A photocopy of, or the number of the student's CDL class A driver's~~[drivers]~~ license after completion of course requirements and successful completion of license examination requirements administered by the Kentucky State Police;

(e) The type and date of instruction given, whether classroom, yard, street, or behind-the-wheel, including the duration of instruction;

(f) The printed name and signature of the instructor on the student instruction card or progress record sheet or equivalent training record forms;[

(g) ~~[Student's completed enrollment application;~~

~~(h)]~~ Student's completed application, student contract or enrollment agreement, including the student's signature and authorized school official's signature properly dated;

~~(h)]~~~~(i)]~~ Financial documents signed by the student including the student's completed loan agreement and accurate record of all fees paid to the school and government agencies;

~~(i)]~~~~(j)]~~ Student's attendance record;

~~(j)]~~~~(k)]~~ Student's progress report;

~~(k)]~~~~(l)]~~ Student's transcript including all examination grades and skills proficiency competency scores, or evaluation received during course of instruction;

~~(l)]~~~~(m)]~~ Written examination and skills examination, including grade; and

~~(m)]~~~~(n)]~~ Results of medical fitness examination and DOT-required drug test.

(3) The school shall furnish each commercial driver license training student upon the student's request a copy of his or her student instruction record if he or she ceases taking instruction at the school.

(4) All student records, school facilities, and school equipment are subject to inspection by the commission and its representatives upon request and without prior notice to the school.

Section 2. Schedule of Fees Charged to Students and Refund Policy. (1) Each licensed commercial driver license training school shall publish a schedule of fees charged to students for instruction to include as applicable:

- (a) Administrative fee;
- (b) Registration/application fee;
- (c) Tuition for instruction;
- (d) Commercial driver license permit fee;
- (e) Off-the-road and on-the-road training fees;
- (f) Room and commission costs; and
- (g) Department of Transportation drug test and medical fitness examination.

(2) The schedule of fees shall be published:

- (a) In the school's catalog, brochure, and Web site;
- (b) In the student contract or enrollment agreement; and
- (c) Within the school's facility by being conspicuously displayed at the school.

(3) Each licensed commercial driver license training school shall establish and adhere to a refund policy to be published:

- (a) In the school's catalog;
- (b) In the student contract or enrollment agreement; and
- (c) Within the school's facility by being conspicuously displayed at the school.

(4) At least five (5) days before a prospective student signs a contract or enrollment agreement, the commercial driver license school shall provide to the prospective student:

- (a) The school catalog;
- (b) The student contract or enrollment agreement; and
- (c) The student loan agreement, if any.

Section 3. Contracts and Agreements Involving Licensed Commercial Driver License Training Schools. (1) Each licensed commercial driver license training school shall:

(a) File and maintain with the commission an accurate and current list of those persons authorized by the school to execute student enrollment contracts and student tuition loan agreements on behalf of the licensed commercial driver license training school including a sample of each person's signature;

(b) Provide to each student who enters a contract or agreement with a licensed commercial driver training school a copy of the signed contract or enrollment agreement; and

(c) File the original of each student contract or enrollment agreement in the permanent student record maintained by the school.

(2) All contracts or enrollment executed by the licensed commercial driver license training schools and its students shall contain the following information:

(a) The name and address of the school. If the school is conducted under an assumed name or is operated by a corporation, partnership, or association, the contract or enrollment agreement shall contain the name of the individual owners or names of the officers of the corporation, association, or members of the partnership;

(b) A statement containing the following text in at least fourteen (14) point font: "This constitutes the entire agreement between the school and the student. No verbal agreements or promises shall be recognized by either the school or the student.";

(c) The school refund policy;

(d) A signature and date line for the student and an authorized school official;

(e) A complete description of all fees charged as set forth in Section 2 of this administrative regulation; and

(f) A statement containing the following text in at least fourteen (14) point font: "The Kentucky Revised Statutes and Kentucky Administrative Regulations governing licensed commercial driver training schools shall be available at the facility upon request."

Section 4. Advertising and Solicitation of Students by Commercial Driver License Training Schools. (1) A person, school, institution, organization, company, association, or partnership shall not advertise or advertise to recruit students unless licensed by the commission.

(2) A licensed commercial driver license training school shall not use any name other than its licensed name, nor shall it advertise or imply that it is "supervised," "recommended," "accredited," or "endorsed" by the Kentucky Commission on Proprietary Education. A school may state "Licensed by the Kentucky Commission on Proprietary Education" in its advertisements.

(3) A licensed commercial driver training school shall not:

(a) Claim nor imply that it guarantees employment upon successful completion of the program;

(b) Guarantee or imply that it guarantees the student will receive a commercial driver license training permit or commercial driver license;

(c) Make any false, misleading, or deceptive claims or guarantees of expected annual income or employee benefits;

(d) Hold itself out as being any type of establishment other than an educational or training establishment;

(e) Use a name that is like or deceptively similar to a name used by another commercial driver license training school;

(f) Advertise or imply that instruction may be given to students who fail the program or examinations without charge to the student unless that instruction without examination is contained in the student contract or enrollment agreement; or

(g) Advertise or solicit in the "help wanted" section of any newspaper or periodical.

(4) A licensed commercial driver license training school shall submit a copy of all advertisements and directory listings to the commission at least thirty (30) days prior to the scheduled publishing date.

Section 5. Inspections of Commercial Motor Vehicles Used by Commercial Driver License Training Schools, Including Mandatory Equipment and Out-of-Service Criteria. (1) Annual inspection. The school shall maintain a copy of the results of the Kentucky State Police's annual inspections of the school's vehicle inventory, as listed with the commission.

(2) In order to be approved, the vehicle shall be:

(a) Owned or leased by the licensed school;

(b) In safe operating condition;

(c) Included on the school's liability insurance policy as mandated by KRS 165A.475(1)(d);

(d) Equipped with seat belts for each vehicle occupant as established by KRS 189.125;

(e) Equipped with functioning side-view and rear-view mirrors;

(f) Identified and clearly displayed on the front, sides, and rear of the vehicle, in letters not smaller than six (6) inches in height and in a color vividly contrasting with the color of the vehicle, the following:

1. Name of the commercial driver license training school; and
2. Words "Student Driver."

(3) Expiration of safety inspection and notification of vehicle changes. The commercial driver license training school shall:

(a) Maintain proof that the vehicle is inspected by the Kentucky State Police annually and passes the inspection;

(b) Remove from use any vehicle that has not passed the inspection by the Kentucky State Police; and

(c) File with the commission written notice if a vehicle has been added or deleted from the school's motor vehicle fleet and have submitted to the commission a revised insurance policy as mandated by KRS 165A.475(1)(d) no later than five (5) business days from the date that the vehicle was added or deleted from the school's motor vehicle fleet.

MISTY N. EDWARDS, Executive Director

For DAVID W. FLOYD, Chair

APPROVED BY AGENCY: August 4, 2021

FILED WITH LRC: August 4, 2021 at 11:10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on October 25, 2021, at 1:00 p.m. Eastern Time, at the Mayo-Underwood Building Hearing Room, 500 Mero Street, 1st Floor, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Misty Edwards, Executive Director, Kentucky Commission on Proprietary Education, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601-1957, phone 502-564-4185, email kcpe@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Misty Edward

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation (791 KAR 1:080) establishes the maintenance of student records, schedule of fees charged to students, contracts and agreements involving licensed commercial driver training schools, advertising and solicitation of students by commercial driver license training schools.

(b) The necessity of this administrative regulation: The administrative regulation (791 KAR 1:080) establishes standards for commercial driver license training schools.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statute requires the commission to establish the standards for maintenance of student

records, schedule of fees charged to students and refund policy, contracts and agreements involving licensed commercial driver license training schools, advertising and solicitation of students by commercial driver license training schools.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation outlines the standards for commercial driver license training schools.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment is simply for clarification purposes.

(b) The necessity of the amendment to this administrative regulation: This amendment is simply for clarification purposes.

(c) How the amendment conforms to the content of the authorizing statutes: The statute requires the commission to establish standards for commercial driver license training schools.

(d) How the amendment will assist in the effective administration of the statutes: The amendment simply clarifies the records to be maintained by the commercial driver license training schools.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Kentucky Commission on Proprietary Education, the 16 commercial driver license training schools, and any proprietary school requiring licensure pursuant to KRS 165A.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No action is required. This is simply for clarification purposes.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is not a cost increase associated with the proposed amendment.

(c) As a result of compliance, what benefits will accrue to the entities: This amendment is simply for clarification purposes.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There will be no costs to the commission associated with the implementation of this amendment.

(b) On a continuing basis: There will be no costs to the commission associated with the implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The commission is funded entirely through fees paid by licensed schools.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation will not require an increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment to this administrative regulation will not require an increase in fees.

(9) TIERING: Is tiering applied? Tiering is not applied because there is no change to the fee or application structure.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Commission on Proprietary Education and proprietary schools.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 165A, KRS 165A.340(3), 165A.510.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amended administrative regulation will not generate any new revenue for the commission.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amended administrative regulation will not generate any new revenue for the commission.

(c) How much will it cost to administer this program for the first year? There will not be a cost increase associated with the amendments to this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? Future costs will remain unchanged related to this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There is no known effect on current revenues.

Expenditures (+/-): There is no known effect on current expenditures.

Other Explanation: There is no fiscal impact associated with this amendment.